

**Before the
Federal Communications Commission
Washington, DC**

In the Matter of)	
)	
Request for Review of the Decision of)	
the Universal Service Administrator)	
or Waiver by)	
)	
High Island School District)	
High Island, TX)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

To: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street S
Washington, D.C. 20554

REQUEST FOR REVIEW OR WAIVER

The High Island School District ("District"), through its representative, E-Rate Elite Services, Inc. (EES), hereby respectfully requests that the Federal Communications Commission ("FCC" or "Commission") review a decision of the Universal Service Administrative Company ("USAC") that denied invoice deadline extension for FY 2012 FRN 2269016, and instruct USAC to grant the requested invoicing deadline extensions. Alternatively, the District requests that the Commission reach the same results by waiving its rules pursuant to §§ 54.719 through 54.723 of the Commission's rules.¹ Additionally, the District requests that the Commission waive its policy requiring appeals of decisions to be filed no later than 60 days from the date of the decision letter being appealed.

At issue is the District's contention that the invoice deadline extension requests were submitted in compliance with the USAC invoice deadline extension procedures that were in place at that time.

Application Information

Billed Entity Number:	141367
FCC Form 471 Application Number:	823465

¹ 47 C.F.R. §§ 54.719 - 54.723

FRN Under Appeal:	2269016
Administrator's Decision on Invoice	
Deadline Extension Request:	January 16, 2015
Administrator's Decision on Appeal:	March 31, 2015
Administrator's Decision Received:	June 9, 2015
Service Providers:	Cameron Telephone Company
Service Provider Identification Number (SPIN):	143002407

I. Facts

On October 24, 2014 EES filed a request for an invoice deadline extension for FRN 2269016, citing the condition "that documentation requirements necessitated third party contacts and certification", which we believed to fit the situation.

On January 16, 2015, EES received notification from USAC that the request for invoice deadline extensions for the aforementioned FRN was dismissed because "Current deadline extension rules and procedures do not allow approval for the reason submitted."

In response, EES filed an appeal with USAC to reconsider the decision to dismiss the invoice deadline extension request. On June 8, 2015, having not yet received an appeal decision from USAC, EES filed an online inquiry using the SLD Online Submit A Question Feature, and Case 22-781054 was established. On June 9, 2015² EES received a response concerning Case 22-781054, in which USAC provided the Administrator's Decision on Appeal letter, which was dated March 31, 2015. The appeal was denied citing the denial reason that:

"Administrative procedures related to the payment of support for discounted services establish deadlines for applicants or service providers to submit invoices to USAC. The administrator provides an extension of the deadline under certain conditions. Those Conditions are documented in the Reference area on the USAC website. (See Invoice Extensions for more information.) Your request did not provide information that satisfied those conditions..."

II Discussion

The District and EES are submitting this Request for Review or Waiver to the Commission based on the following points:

- The Administrator's Decision on Appeal letter was not received by the District's consultant until June 9, 2015

² Copy attached – Exhibit A.

- The request for invoice deadline extensions and subsequent appeal to USAC were made in good faith, and extraordinary circumstances existed that supported the request
- The request for invoice deadline extension was filed in accordance with the guidance posted on USAC's website

Request Made in Good Faith and Extraordinary Circumstances

In accordance with the SPI invoicing process the District paid 100% of the monthly bills for the services related to FRN 2269016. On February 3, 2014, EES submitted a FCC Form 472 (BEAR) to Cameron Telephone Company for the District's reimbursement for the services received pertaining to FRN 2269016. After not receiving Cameron Telephone Company's signed Service Provider Acknowledgement EES attempted to contact service provider. After multiple attempts to contact the Cameron Telephone Company employee to whom the BEAR was sent, EES contacted Cameron's accounting department, which informed EES that the District had received credits on its bill and that Cameron Telephone Company would be invoicing USAC. At time, EES withdrew the BEAR for FRN 226916.

On October 1, 2014, EES again contacted Cameron because USAC had still not been invoiced for FRN 2269016. Cameron's accounting department again confirmed that the credits had been applied to the District's account and that Cameron's accounting department only invoices USAC once per year, and that the SPI would be submitted before the invoicing deadline. On October 24, 2014 EES noted that USAC had still not been invoiced for FRN 2269016 and submitted the invoice deadline extension request to USAC so that EES and the District could work with Cameron to ensure that USAC was properly invoiced.

In the E-rate Modernization Order, the Commission noted that:

"With respect to invoicing deadlines for earlier funding years, absent extraordinary circumstances justifying the failure to timely submit invoices, we expect the Bureau and USAC to deny any requests or appeals seeking an invoicing deadline extension of more than 12 months after the last date to invoice."³

We feel circumstances such as that described above meet the Commission's intent with respect to the establishment of invoicing deadlines in the E-Rate Modernization Order⁴, and further suggest the

³ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 (2014), ¶ 242

⁴ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 (2014), ¶ 242

situation described above represents the type of extraordinary circumstances, one in which the SPI invoicing process is largely outside the control of the applicant, described by the Commission.

Invoice Deadline Extension Request Filed in Accordance with Posted Guidance

Per USAC's website⁵, and included in the Administrator's Decision on Appeal, there are a number of conditions under which invoice deadline extensions may be granted. Included in this list is "Documentation requirements that necessitate third-party contact or certification". It is our belief that this condition fits this situation because the service provider was required to sign the BEAR Form in order for the District to receive its E-Rate reimbursements for FRN 2269016.

It appears that USAC's dismissal of the October 24, 2014 invoice deadline extension request because "Current deadline extension rules and procedures do not allow approval for the reason submitted" as well as the subsequent appeal denial because:

"...invoicing deadlines for earlier funding years, absent extraordinary circumstances justifying the failure to timely submit invoices, we expect the Bureau and USAC to deny any requests or appeals seeking an invoicing deadline extension of more than 12 months after the last date to invoice..."

are directly related to guidance and rule changes stated in the E-rate Modernization Order.

We respectfully suggest that the rules and procedures noted in USAC's dismissal and denial reasons noted above were not in effect at the time the invoice deadline extension requests were submitted to USAC. Paragraph 240 of the E-rate Modernization Order states:

"We adopt a rule allowing applicants to seek and receive from USAC a single one-time invoicing extension for any give funding request, provided the extension request is made no later than what would otherwise be the deadline for submitting invoices: 120 days after the last day to receive service, or the date of the FCC form 486 notification letter."⁶

This ruling codified USAC's existing invoice filing deadline; however, the amended rule, 47 C.F.R. §54.514, did not become effective until December 18, 2014.⁷ Notwithstanding, the invoice deadline extension was submitted within the relevant invoice period, in compliance with the invoice deadline guidelines and procedures cited by USAC in its appeal denial reason.

⁵ <http://www.usac.org/sl/applicants/step07/invoice-extensions.aspx>

⁶ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 (2014), ¶ 240

⁷ *Modernization of the Schools and Libraries "E-Rate" Program*, 79 Fed. Reg. 68632 (November 18, 2014)(to be codified at 47 C.F.R. pt. 54).

III Conclusion

Throughout its application process, the District has complied with all E-Rate program rules and regulations. No waste, fraud, or abuse of E-Rate funds has occurred, and it would serve the public interest for the Commission to grant the requested invoice deadline extension for FRN 2269016 and would alleviate financial hardship for the District. Furthermore, we believe there were no violations of E-Rate program rules or regulations that warranted denial of the invoice deadline extension or the subsequent appeal. Therefore, we respectfully request that the Commission grant this appeal and find that the District's invoice deadline extension request for FRN 2269016 was submitted in compliance with the invoice deadline guidelines and procedures that were in place at the time of the requests.

Alternatively, the Commission has previously established that a rule may be waived where the particular facts make strict compliance inconsistent with the public interest.⁸ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁹ Therefore, in the event that the Commission does find that the District's invoice deadline extension request for FRN 2269016 were not submitted in compliance with the invoice deadline guidelines and procedures that were in place at the time of the request, we request that the Commission grant the District a waiver of the invoice deadline for FRN 2269016.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'C. Lenhardt', with a long horizontal flourish extending to the right.

Christopher Lenhardt, CFE
E-Rate Elite Services, Inc.

⁸ Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular)

⁹ WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969); Northeast Cellular, 897 F.2d at 1166